



Federal Communications Commission
Washington, D.C. 20554
MAY 20 1996

The Honorable Peter T. King
U. S. House of Representatives
1003 Park Boulevard
Massapequa Park, New York 11762

DOCKET FILE COPY ORIGINAL

Dear Congressman King:

Thank you for the letter dated April 9, 1996, on behalf of your constituent, Fred Mohrmann, regarding the Commission's policies for licensing 800 MHz Specialized Mobile Radio (SMR) systems. Mr. Mohrmann expresses concern regarding the Commission's decision to redesignate the 800 MHz General Category Pool frequencies. Mr. Mohrmann also expresses concern about the proposed use of competitive bidding procedures to award future licenses on these frequencies.

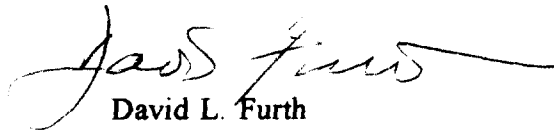
On December 15, 1995, the Commission issued a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144, which addressed the treatment of the General Category. In the First Report and Order, the Commission determined that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. In fact, our licensing records indicate that there are three times as many SMR licensees using General Category channels as any other type of Part 90 licensee. The Commission therefore concluded that the most efficient use of the General Category channels would be to redesignate them exclusively for SMR use. Thus, the First Report and Order provided that in the future, only SMR service providers will be eligible for new licenses in the General Category pool. Existing non-SMR licensees on General Category channels will continue to operate under their current authorizations, however, and will be fully protected from interference by new SMR licensees. In addition, the Commission's decision specifies that SMR service providers are no longer eligible to apply for licenses on Business or Industrial/Land Transportation channels. As a result, we anticipate that the First Report and Order will make more spectrum available for licensees such as Mr. Mohrmann, who are currently eligible, and will continue to be eligible, to apply in the Business and Industrial/Land Transportation categories. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. The Commission has concluded that auctioning of SMR licenses

satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. As noted above, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a long, sweeping horizontal line extending to the right.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

PETER T. KING

Member of Congress
Third District, New York

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WASHINGTON, DC 20515-3203
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Congress of the United States

House of Representatives

Washington, DC 20515-3203

April 9, 1996

COMMITTEE ON BANKING
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NEW YORK STATE DELEGATION

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Federal Communications Commission
Office of Legislative Affairs
1919 M Street NW Room 808
Washington, D.C. 20544

RE: Mr. Fred Mohrmann
President
Mohrmann Electric Co., Inc.
3581 Bayview Street
Seaford, NY 11783

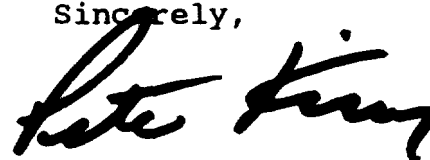
Dear Sir:

The attached communication is sent for your consideration.
Please investigate the statements contained therein and respond
to me with the necessary information for reply, returning the
enclosed correspondence with your answer.

Send all correspondence to my Massapequa Park District
Office at 1003 Park Blvd., Massapequa Park, New York 11762.

Thank you for your prompt attention to this matter.

Sincerely,



PETER T. KING
Member of Congress

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Enclosure

*** COPY ***



THE SENATE
STATE OF NEW YORK
ALBANY

APR 8 1996

NORMAN J. LEVY

8TH DISTRICT

COMMITTEE ASSIGNMENTS

CHAIRMAN, TRANSPORTATION
CHAIRMAN, SENATE MAJORITY CONFERENCE
CHAIRMAN, SENATE TASK FORCE
ON DRUNK DRIVING
CHAIRMAN, LEGISLATIVE COMMISSION
ON CRITICAL TRANSPORTATION CHOICES

MEMBER

ALCOHOLISM & DRUG ABUSE
FINANCE
EDUCATION
JUDICIARY
LABOR
RULES

PLEASE REPLY TO

DISTRICT OFFICE

30 SOUTH OCEA
ROOM 305
FREEPORT, NEW YORK 11520
(516) 546-4100

~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~
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(516) 845-4063

SUNY Farmingdale
Rt. 110
Campus Commons, Bldg. 6
Farmingdale, NY 11735

April 4, 1996

Mr. Fred Mohrmann, President
Mohrmann Electric Co., Inc.
3581 Bayview Street
Seaford, New York 11783

Dear Mr. Mohrmann:

Thank you for your recent letter.

Since the matter to which you refer is Federal in nature, I am taking the liberty of forwarding a copy of your letter to the Honorable Peter King, who is your representative in the United States Congress.

I am sure you will be hearing directly from Congressman King on this matter.

If I can ever be of any assistance to you in matters dealing with New York State, please do not hesitate to contact me.

Best wishes.

Sincerely,

mg. Signed

NORMAN J. LEVY
New York State Senate

NJL:nnp

BCC: Congressman Peter T. King

Mohrman Electric Company, Inc.

3581 BAYVIEW STREET SEAFORD, NEW YORK 11783
(516) 826-3311

APR - 1 1996

March 25, 1996

Senetor Norman Levy
100 Broadhollow Road
Room 315
Farmingdale, New York 11735

Re: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General Category Pool to a Commercial-only and Proposed Implementation of Competitive Bidding Process

In the above referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to one of the latter who do not use the spectrum to generate business revenues.

We are electrical contractors. The radios are an important part of our operation in the way we keep in contact with our electricians, from job to job. It is vital to keep communication open between our office and the men in the field in order to serve our customers in the best possible way.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

We do not support - nor do we believe you should support - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309 (j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

Mohrman Electric Company, Inc.

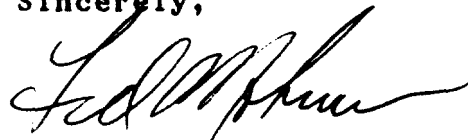
3581 BAYVIEW STREET SEAFORD, NEW YORK 11783
(516) 826-3311

Page Two
FCC PR Docket No. 93-144
March 25, 1995

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance will be most appreciated.

Sincerely,



Fred Mohrmann, President
MOHRMAN ELECTRIC CO., INC.

FM/lr
CC: file
:fcc: